

Durham Research Online

Deposited in DRO:

04 February 2016

Version of attached file:

Accepted Version

Peer-review status of attached file:

Peer-reviewed

Citation for published item:

McGlynn, C. and Downes, J. and Westmarland, N. (2017) 'Seeking justice for survivors of sexual violence : recognition, voice and consequences.', in Restorative responses to sexual violence : legal, social and therapeutic. Abingdon, Oxon: Routledge, pp. 179-191. Routledge frontiers of criminal justice. (44).

Further information on publisher's website:

<https://www.routledge.com/9781138641310>

Publisher's copyright statement:

This is an Accepted Manuscript of a book chapter published by Routledge in Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions on 09/02/2017, available online: <https://www.routledge.com/9781138641310>

Use policy

The full-text may be used and/or reproduced, and given to third parties in any format or medium, without prior permission or charge, for personal research or study, educational, or not-for-profit purposes provided that:

- a full bibliographic reference is made to the original source
- a [link](#) is made to the metadata record in DRO
- the full-text is not changed in any way

The full-text must not be sold in any format or medium without the formal permission of the copyright holders.

Please consult the [full DRO policy](#) for further details.

Seeking Justice for Survivors of Sexual Violence: recognition, voice and consequences

Clare McGlynn, Julia Downes and Nicole Westmarland*

Abstract

In recent years, a small number of studies have investigated the use and impact of restorative justice in cases of sexual violence. While initial findings are broadly positive, the studies are constrained by small sample sizes. This chapter contributes to this emerging body of evidence by sharing the preliminary findings of a study investigating the justice perspectives of a group of sexual violence survivors. This study does not provide a specific analysis of the experiences of those who have engaged in restorative approaches. Rather, it examines the insights of sexual violence survivors on their understandings of 'justice', particularly the concepts of recognition, voice and consequences. In considering the extent to which restorative justice may or may not meet these justice interests, we suggest that some restorative approaches may provide an opportunity to satisfy some elements of the survivors' understandings of justice. Nonetheless, survivors' concepts of justice extend well beyond both the conventional criminal justice system and restorative approaches, such that a far broader, kaleidoscopic, understanding of justice needs to be considered.

It is widely accepted that conventional criminal justice systems fail to meet the needs and interests of sexual violence survivors. As a result, there is widespread debate over the possibility of developing and introducing more innovative means of securing justice, including a range of restorative approaches. Such approaches are being considered both as a means of re-shaping or re-orientating the conventional criminal justice system, as well as for their potential to provide alternative justice responses beyond the conventional system. However, discussion regarding the potential of restorative approaches to offer some measure of justice for sexual violence survivors has largely proceeded at a conceptual level due to the limited opportunities for restorative justice to be used in this field. While it is vital that we engage in thoughtful analysis of the principles and concepts underpinning any use of restorative approaches in cases of sexual violence, the debate can make only limited progress in an empirical vacuum.

Nonetheless, over the last few years, a small number of studies investigating the use and impact of restorative approaches in cases of sexual violence have been published (Daly, 2006; Jülich et al., 2010; Bletzer & Koss, 2013; McGlynn, Westmarland & Godden, 2012; Miller & Iovanni, 2013; Koss, 2014; Keenan & Zinsstag, 2014; Keenan, 2014). These studies examine the impact of a range of restorative approaches and include the experiences and perspectives of survivors of sexual violence, though they are constrained by small sample sizes. The aim of this chapter is to contribute to this emerging body of evidence by sharing the preliminary findings of a study investigating the justice perspectives of a group of sexual

* **Clare McGlynn** is a Professor of Law at Durham University. Nicole Westmarland is a Professor of Criminology at Durham University. Julia Downes is a Lecturer in Criminology and Social Policy at the Open University. We would like to thank Judith Evans for her research assistance in undertaking this project.

violence survivors. This study does not provide a specific analysis of the experiences of those who have engaged in restorative approaches. Rather, it examines the insights of sexual violence survivors on their understandings of 'justice', particularly the concepts of recognition, voice and consequences. In considering, the extent to which restorative approaches may or may not meet these justice interests, we suggest that some restorative approaches may provide an opportunity to satisfy certain of the survivors' justice interests. Nonetheless, survivors' concepts of justice extend well beyond both the conventional criminal justice system and restorative approaches, such that a far broader, kaleidoscopic, understanding of justice needs to be considered.

1. Investigating Survivor Perspectives on Justice

Academic and policy research has demonstrated that the conventional criminal justice response largely fails sexual violence survivors (Kelly et al., 2005; Payne, 2009; Stern Review, 2010; Daly, 2011; Keenan, 2014). This has led to many calls to reform the criminal justice system, including pressure in the United Kingdom to better 'honour the experience' of survivors of sexual violence (Payne, 2009; Stern, 2010: 9). At the same time, the argument for the expansion of justice alternatives, either operating alongside, or instead of, the criminal justice system, has gained momentum (Koss, 2006; Daly, 2011). Restorative approaches have emerged as possible mechanisms to better deliver the justice interests of sexual violence survivors (Hudson, 2002; Van Wormer, 2009; Miller, 2011; Miller & Iovanni, 2013; McGlynn et al., 2012). In this chapter, we use the term restorative approaches to refer to a range of processes that coalesce around a central idea: 'a process whereby all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1999: 5). These processes can take many different forms, though the predominant focus in the literature on sexual violence is on the restorative justice conference. Restorative conferencing generally involves the survivor and perpetrator meeting face to face, together with other friends/family or community supporters, with dialogue managed by a trained restorative justice facilitator. As most discussion is around the use of restorative justice conferencing, we situate our analysis in that context.

Our study builds on two key papers that explored what justice means to survivors of sexual and domestic violence (Herman, 2005; Jülich, 2006). Taken together, these two studies suggested that survivors express their interests in justice in terms beyond the conventional justice system. Moreover, while Jülich suggested that restorative justice processes might meet many of the survivors' interests, the survivors themselves were sceptical (Jülich 2006: 133-135). Herman similarly found that justice from the participants' perspectives was neither 'restorative nor retributive in the conventional sense' (Herman, 2005: 597). This underlines that the vision of justice from survivors was neither driven by, nor reflective of, either conventional criminal justice systems or emerging restorative practices.

In order to reconsider and develop these insights, we created an Educational Empowerment Research (EER) methodological approach to explore with sexual violence survivors what justice means to them (Westmarland, McGlynn & Evans, 2014). The EER approach consisted of sexual violence survivors taking part in a workshop that consisted of a short presentation on current legislation and research on punishment for sexual offenders (the educational element), as a core aspect of justice, followed by a facilitated discussion in which they were treated not as 'victims' but as 'experts through experience'. Our participants were therefore not 'lay' members of the public, but nor were they trained sexual violence advocates or counsellors; their participation drew on their lived experiences of sexual

violence, part of an epistemic community with experiential knowledge (Coy & Garner, 2012). Twenty women participated across two workshops and interviews all of which were audio recorded and transcribed with the participants' consent. Interviews were conducted following on from workshops where interviewees were asked in greater depth about their ideas of justice and injustice more broadly, in light of their experiences of sexual violence and any engagement with formal and/or informal justice mechanisms. The focus of this project as a whole was on survivor perspectives of justice; therefore we did not ask specific questions regarding restorative justice approaches, although restorative approaches did emerge in many of the discussions. Survivors were recruited by means of opportunity sampling through local charities, universities, relevant social media groups and by word of mouth.

The participants consisted of 20 self-identified women who had experienced sexual violence at least once in their lives, ranging in age from 16 to 74. All participants described themselves as white but had varied educational backgrounds, from having no formal qualifications to having a degree or higher qualification. There was also a spread of current occupations, with just under half of the participant group currently identifying themselves as students, a quarter reporting being in paid employment, 2 participants unable to work, and a quarter selecting 'other', with some of these participants noting multiple occupations, such as student, paid employee and partner in business. Seven of the participants had experienced sexual violence 'once or twice' in their lives, 5 'quite a few times', and 6 'too many to count'; 2 participants did not specify how many times they had experienced sexual violence during their lives. When asked about whether they had reported any instance(s) of sexual violence to the police, of the 19 women who responded to this question, 11 had reported at least one incident to the police.

2. Sexual Violence Survivors and 'Kaleidoscopic Justice'

Justice was not synonymous with the conventional criminal justice system for our participants. In fact, rather than refer to conventional convictions and punishment as embodying justice, our participants struggled to articulate what justice might indeed feel like. What arose from discussions were a myriad of thoughts, perceptions, ideas and suggestions which might, in some shape or combination, provide - for some - a sense of justice. We have called this vision of justice 'kaleidoscopic justice' (McGlynn & Westmarland, 2014). Kaleidoscopic justice is justice as a continually shifting pattern; justice constantly refracted through new circumstances, experiences and understandings; justice as non-linear, with multiple beginnings and possible endings; and justice as a lived, on-going and ever-evolving experience without certain ending or result. Within this conception, there are a number of different elements to the kaleidoscope including social and cultural change, prevention, voice, recognition, consequences, dignity and support. In this chapter, we focus on recognition, voice and consequences to draw out the implications for the further development of restorative approaches in cases of sexual violence.

2.1 Recognition as Justice

A sense of recognition was fundamental to survivors' senses of justice. Recognition is the shared perception of something as existing or true: they have been harmed and victimised. Recognition also entails an expectation or entitlement to consideration; it is a form of acknowledgement conveying support. Recognition, therefore, is more than simply 'being believed'. Recognition encompasses the significance of the experience being acknowledged. This was neatly encapsulated by one participant who stated that: 'I think it's that recognition

of hurt that would mean or does mean justice to me personally.’ Another emphasised the importance of ‘acknowledgement that this happened and that people believe you that it happened’.

It may follow, therefore, that an early admission of guilt and responsibility from a perpetrator might constitute some element of recognition for survivors (Payne, 2009; Daly, 2011; McGlynn, 2011). As an acknowledgement of responsibility is a pre-requisite for restorative justice, it may be that restorative approaches offer one important means by which survivors are afforded the recognition they require (Joyce-Wojtas & Keenan 2015). As Barbara Hudson describes, in restorative justice ‘the offender is forced to confront the fact that the harm is real, that she really is afraid, that she really does suffer, and that he was responsible for these effects’ (2002: 625). This is in contrast to the conventional criminal justice system that offers little incentive for admissions of guilt (Curtis-Fawley & Daly 2005). Engagement with restorative approaches could offer survivors better recognition of the harms they have experienced. This resonates with the survivors in our study who spoke about the importance of the perpetrator admitting the offence. For one, admission of guilt is what she wanted most: ‘I would never ever say putting somebody like that into jail would make things right, like I say, it’s admitting ... them to admit’. Another explained: ‘even the restorative justice process, you know, I would have been happy to go along with because for me it was more about him understand the severity of what he’d done and acknowledging it’. Hence, for some participants, having experienced sexual violence themselves did not necessarily lead to the desire for overly punitive responses.

Nonetheless acknowledgement from a perpetrator is only one aspect of what constitutes recognition to survivors, with survivors talking extensively about recognition from family, friends and society more broadly. For instance, one survivor explained that, ‘family and friends who just turn up and say ‘I believe you’, I think are incredibly important’. Recognition from friends was important for the emotional well-being of survivors, as another explained: ‘if other people all kind of believe you and validated you then you might not feel like that kind of level of hurt and like I want to lash out at him’. Survivors also spoke extensively about the problems of living in a society and culture in which rape myths and gender stereotypes reinforced victim-blaming and male dominance:

I personally wonder if justice for me is having not only the perpetrator but also different sections of society as a whole understanding that I was really hurt and being able to... not, I would never want anybody to fully understand but to be able to see and appreciate that actually that must have been awful. And I think it’s that recognition of hurt that would mean or does mean justice to me personally.

Restorative processes are often commended for a role they could play in improving community understandings of crime and harms. In this way, the involvement of supporters, families and others in restorative processes may play a role in challenging the myths around rape and sexual violence. On the other hand, there are questions raised about the extent to which engagement in a restorative process can help to shift such embedded myths and perceptions. Similarly, while restorative approaches do require an acknowledgement from a perpetrator, there are questions to be considered around the extent and nature of any such concession. Mary Koss introduces a key caveat in the definition of a ‘responsible person’ in restorative justice: ‘admitting responsibility is acknowledgement that the act occurred and is not synonymous with entering a guilty plea or self-identification as a rapist’ (2014: 1626). This narrow admission to the act is distinct from the better recognition that survivors call for that acknowledges responsibility situated within the wider social significance of sexual violence. In addition, critics have argued that restorative justice fails to acknowledge the

complex motivations and tactics of minimisation and blame used by violent men (Stubbs, 1997; Lewis et al., 2001). A refusal to take responsibility and/or recognise the wider social significance of harm could mean that survivors are (once again) denied another justice route and source of recognition.

2.2 *Voice as Justice*

For many survivors, sharing their experiences is important. They wish to give voice to the harms they have suffered and for this to be recognised. In this way, survivors wish to ‘name their own experience’ (Kelly, 1988: 66) and ‘tell their story in their own way’ (Herman, 2005: 574). Voice, in varying forms, has been suggested as a positive component of restorative approaches for victim-survivors as a possible means of taking ownership of justice processes and telling their story on their own terms (Hudson, 2002; Morris, 2002; Koss et al., 2003; Curtis-Fawley & Daly, 2005; Koss, 2006; Daly & Stubbs, 2006; Van Wormer, 2009; Jülich et al., 2010; Miller, 2011; McGlynn et al., 2012; Miller & Iovanni, 2013; Keenan, 2014; Miller & Hefner, 2015). In our discussions with survivors, voice was used as a metaphor encompassing a number of different justice interests. The first of these elements is voice as *active participation* in the decisions and direction of justice processes; closely related to voice a process of *speaking out* and making sense of the harm experienced that is heard by a responsible person/perpetrator, family members and friends.

2.2.1. *Voice as Active Participation*

A sense of marginalisation within the conventional criminal justice system was evident from our participants, with one explaining how she felt like ‘a bit of evidence’ rather than the person most directly harmed by the offence. The peripheral role of the ‘victim’ within the criminal justice process, as an object of evidence, disempowered survivors who were often left with little to no control over their presence or involvement in their cases. Another survivor described her loss of power through the criminal justice process:

I think it does take bits of power away from you, I think it does, in ways. You’ve got to wait for them to make the decision of going to court. I had that tossed and turned so many times it was unbelievable. So I didn’t want to go to court and they told me I had to - they wanted me to be there. So then I am prepared for that and then they told me they didn’t want me there. So then I was like well, and then they told me that they did want me there so then I was totally determined and then it come to like two days before and they were like “Oh no we don’t need you”. So it was just so up and down and they took all the power away from me because I didn’t know what I was meant to be doing.

Survivors also spoke about how they wanted to be more central to, and in control of, the justice process: to make decisions and influence the direction of the process. For instance one stressed the need for survivors to ‘have a say in the investigation in their case, so that they’re not just basically evidence’. In contrast to the peripheral role in the criminal justice system, survivors stressed the importance of opportunities to reclaim and exert power in justice processes:

I think power is the most important thing in a situation like that. I think you've got to have power because ... there's been an incident where all power has been taken away from you. So for it to then be taken away from you again and again and again it's not

... how I would have liked to deal with it anyway. I think having power is very important.

Survivor-centric empowerment and control are recurrent themes in research on the benefits of restorative justice in contrast to the limitations of the criminal justice system (Harris, 2004; Curtis-Fawley & Daly, 2005; McGlynn et al., 2012; Koss, 2014; Keenan, 2014; Miller & Hefner, 2015). Advocates argue that restorative justice empowers survivors to participate by enabling them to take on a more active role in decisions and justice outcomes (Curtis-Fawley & Daly, 2005). In a recent evaluation of the RESTORE programme 90% of survivors reported that they felt safe, listened to, supported, treated fairly, treated with respect and not expected to do more than they anticipated (Koss, 2014). It is possible, therefore, that restorative approaches can offer survivors opportunities to be active participants in their justice process.

2.2.2 *Voice as Speaking Out*

Restorative approaches are also recommended as a means to offer survivors an opportunity to speak and make sense of their experience, while also shaping the understanding of others (Julich et al., 2010; Miller, 2011; McGlynn et al., 2012; Miller & Iovanni, 2013; Keenan, 2014). For some survivors, a forum to voice the harm that has been done to them with the perpetrator enabled them to better understand what happened, offload the weight of the crime and redress power imbalances (Koss, 2014). A restorative conference in which survivors can ask questions and receive answers can help to lift the burden of blame, restore self-respect and enable survivors to move on (McGlynn et al., 2012; Miller & Iovanni, 2013; Koss, 2006, 2014; Keenan, 2014). In this way, restorative justice has been described as a ‘transformative, empowering and cathartic’ (Miller, 2011: 164) experience for survivors. In-depth individual case studies have demonstrated the benefits of finally being heard and having their experience validated, the perpetrator taking responsibility and having the opportunity to demonstrate that they are no longer afraid of the perpetrator (McGlynn et al., 2012; Miller & Iovanni, 2013).

In our study, there was an expressed wish from some survivors for the perpetrator to directly bear witness to their story, answer their questions and recognise the harm they had caused. One survivor described how she ‘would love so much to be able to get the chance, for somebody to... for me to sit in front of that man, and say “Do you know what you’ve done to me?” and for him to admit what he has done because that is all you want... is for them to turn around and say “Yes, I did it”’. Gaining a more comprehensive understanding of the act by knowing the perpetrator’s perspective was important to some survivors: ‘the hardest part is trying to work out for yourself why they’ve done it because you can never put yourself in their mind’. For another, the option of dialogue with her perpetrator outweighed the benefits of imprisonment in terms of the value this would add to her own process of understanding: ‘if I was given the option whether to do the restorative process or just send someone to jail I would rather sit down and understand why than send someone away and [be] left with unanswered questions and have to try and figure out what’s going on’.

This chimes with previous research that found that survivors ‘aspired to attain a state of mind in which the offender or his offence no longer dominated their thoughts’ (Herman, 2005: 593). For instance, in our case study of ‘Lucy’, the restorative conference was experienced as a ‘turning point’ that enabled her to better understand her position as a victim and his as the offender. This enabled ‘Lucy’ to resolve inner conflict and attribute blame to the responsible person/perpetrator (McGlynn et al., 2012: 228).

However, other survivors expressed no interest in facing their perpetrator. From this perspective, confrontation with the perpetrator would be harmful for the survivor and even encourage the perpetrator to continue to cause harm to others. For instance, when discussing a case where a restorative conference had taken place, one survivor queried the extent to which there are genuine options:

I wonder if she had a choice about whether to sit in a room with him and talk about it or if that was just what they had to do. I think for a lot of people that would be pretty shit, especially talking about the impact of the offence in front of the offender, it's re-victimising.

Developing this point, another argued that 'a lot of perpetrators would just get off on someone saying it's affected them that much and then would actually want to do it again because most perpetrators do it to feel powerful'. While such concerns are understandable, it is important to remember, and to ensure greater public awareness, that restorative processes are premised on the active consent and engagement of all parties. No restorative approach should take place without the full and informed consent of the survivor. Further, the assessment and preparation process, which must be central to all restorative approaches, considers perpetrators' motivations and should identify problematic cases.

Concerns about exacerbating power imbalances and re-victimisation are well developed in this area (Busch, 2002; Strang & Braithwaite, 2002; Cossins, 2008). Furthermore, some research has found that for some survivors the reproduction of power imbalances within the restorative justice conference can actually diminish the survivor voice. For instance, 16% of survivors reported in one study that they found it difficult to speak openly in a restorative justice conference; in contrast, no perpetrator reported difficulty speaking openly (Koss, 2014). This reminds us of the caution expressed by Stubbs that not all survivors are well equipped to speak in their own interests (1997). The ability and willingness of survivors to participate in restorative approaches, and engage in dialogue of some form with perpetrators, will vary among survivors and be dependent on a wide variety of factors. In our study, different lengths of time had gone by since participants' last experience of sexual violence, and it is possible that their perspectives and ability to speak in their own interests might vary depending on this and other individual circumstances (for example support from family and friends). Further, levels and extent of training of facilitators, support afforded to survivors and the process of preparation for a restorative approach will impact significantly on survivors' interest and ability to speak in their own voice.

It has also been noted that power dynamics can be more complex if the survivor and perpetrator know each other, and power inequalities may be more prevalent in particular types of gendered violence such as domestic violence and child sex abuse (Miller, 2011). The 'intimate knowledge' that a perpetrator has accumulated about the survivor throughout their relationship can mean that subtle gestures, change in tone of voice or expression, which may go undetected in the conference, harbour the potential for re-victimisation (Stark 2007). Perpetrators may also blame the survivor, make light of the offence and refuse to apologise in a restorative justice conference (Shapland et al., 2007; Cossins, 2008). While a recent evaluation found that of the 22 cases examined, only one punitive statement against the survivor was made by a perpetrator (Koss, 2014), researchers have found a minority of survivors who have had negative experiences of a restorative justice conference (Strang et al., 2006, Wemmers, 2002; Shapland et al., 2007). While survivors are, therefore, seeking a voice, questions remain around the extent to which existing practice enables this in a safe and survivor-focussed manner. This underlines the imperative of all those engaged in delivering and supporting restorative approaches for sexual violence to adopt best practice in the field

and ensure they have a deeply embedded understanding of the dynamics of sexual violence (Mercer & Sten Madsen, 2015). The potential for more negative experiences can thus be reduced. Nonetheless, it is important to recognise that restorative approaches may be appropriate for some, but not all.

3. Consequences as Justice

When asked what justice meant to her, one survivor was clear: ‘*meaningful* consequences’. All survivors spoke of their wish for perpetrators to experience tangible consequences, symbolically and emphatically to underline the significance and harm of their actions. For some survivors, consequences were initially shaped by the criminal justice system. For one, the death penalty was a viable option that should be brought back. This may have been her speaking predominantly from her perspective as a survivor of this type of crime, or may have connected with her views more widely on capital punishment as a crime control measure. For another, the ‘only kind of justice is prison’, though adding that this was ‘not for revenge, it’s for my own peace of mind that I wanted things put right’. In this way, the consequences sought generally went beyond conventional ideas of punishment. One participant talked about how once a case has gone to court, ‘justice is a guilty conviction’. Justice here, though, was also linked to prevention, as her concern was ‘always what if he did it to somebody that maybe wasn’t as strong’. Her aim was ‘not to see him rot in prison or anything like that, it was just for it not to happen again’. Dominant forms of punishment offered by the criminal justice system (i.e. conviction, fines, prison sentence) offered symbolic weight for survivors.

Nonetheless, clear limitations of consequences offered by the criminal justice system were evident. One survivor wondered that ‘even if you received justice kind of through [the criminal justice system], is it the kind of justice that you wanted? Like maybe not necessarily’. Another was at first clear that in relation to rape prison was essential, but went on to describe how she was not sure that prison was right for her everyday circumstances because she had a young son and ‘I don’t know if I can do that to my little boy, you know, and not have a father’. Furthermore, what might commonly be assumed to constitute justice may not work for a particular survivor, with one dismissing financial compensation as an ‘easy way out’.

Another important consequence survivors called for was exposure, emphasising the need for public acknowledgement that this was a perpetrator. As one explained: ‘I would have liked him to have been exposed for what he was and I would like the opportunity to know that he wasn’t able to perpetrate any more offences against anyone’. Others indicated a desire to remove a perpetrator from the everyday shared spaces that they work, study and/or live. This could involve having the perpetrator removed from particular classes or institution, being transferred to a different workplace or post, or from social events and communal residences. For instance, one woman considered the possibility of removing the perpetrator from the classroom and workplace:

I think definitely if you could remove, I’m thinking in the university setting, if you can remove somebody from... from class so you’re not sitting in the same room as the person who assaulted you is very important [...] I think it would be the same in an employment situation as well.

The consequences that survivors seek are diverse, often not synonymous with conventional understandings of justice or punishment. At the same time, it was evident that the majority of survivors were not well informed of justice options beyond the conventional justice system, such as restorative justice, which could potentially offer survivors a possibility to realise

meaningful consequences to hold a perpetrator accountable. This is regrettable, though sexual violence survivors are not alone in their lack of knowledge about alternative justice mechanisms. There is, therefore, a need for a broad range of survivor organisations and policy-makers to better understand survivors' justice interests and, in turn, work with survivors to enable those interests to be met through both existing and potentially new justice mechanisms.

The consequences sought by survivors also varied over time and, for some, their interests were potentially contradictory. For instance, one participant recognised that each survivor may want seemingly contradictory things, such as 'they want to go and speak to the perpetrator and vent their anger', as well as wanting them 'to be banged up in prison for the rest of their lives'.

Finally, participants found it difficult to be able to say whether a particular form of punishment, or exposure, of a perpetrator was more or less important than other consequences. One participant summarised this on the basis that: 'I don't think in a situation like that you're ever satisfied with what happens, ever... It doesn't matter what happens, he could be given life in prison and it would never take away what happened to you and it would never bring back that person that was took away from me'.

4. Beyond conventional and restorative approaches to justice

The participants in our study made clear that their understandings of justice extend well beyond conventional criminal justice systems. In relation to each of the key themes considered in this chapter, namely recognition, voice and consequences, survivors embraced some elements of conventional understandings of justice, but also desired more. In this context, restorative approaches offer some opportunities to better meet survivors' justice interests. In relation to recognition, restorative approaches offer more incentive for early admissions of guilt by perpetrators than criminal justice approaches, with the caveat that the acknowledgement offered may be relatively circumscribed. Survivors also want an active voice, seeking more ownership and control within a justice process in order for them to feel empowered. Restorative approaches are likely to offer greater potential for many survivors to realise their voice. Finally, survivors wanted perpetrators to face more meaningful consequences to better underline the significance of the harm caused. These consequences were very individual; some survivors located justice in conventional criminal justice approaches such as imprisonment, whilst others felt that they could achieve a better sense of justice through more informal means and arrangements involving the exposure and/or removal of the perpetrator from their everyday lives. In the latter case, restorative approaches offer considerable possibilities in the form of a 'redress plan', a tailored set of actions for the perpetrator to complete that holds particular significance to the survivor, agreed following a restorative justice conference.

Thus, our finding that survivors' understandings of justice extend beyond the parameters of conventional and restorative approaches, echoes the participants in Herman's study whose views of justice were 'neither restorative nor retributive in the conventional sense' (Herman 2005: 597). In looking forward, therefore, restorative approaches can only be one part of a broader search for justice. In our study, survivors' visions of justice also included their interests in social and cultural change, the prevention of sexual violence, the need for support, and the idea of dignity as a foundational value. These elements, together with recognition, voice and consequences, form the myriad of perspectives making up a vision of kaleidoscopic justice for survivors of sexual violence.

References

- Bletzer, K. V. & Koss M. P. (2013) Restorative Justice and Sexual Assault: Outcome appraisal through textual analysis. *The Open Area Studies Journal*, **5**: 1-11
- Busch, R. (2002) Domestic Violence and Restorative Justice Initiatives: Who pays if we get it wrong? In, H. Strang & J. Braithwaite (eds.) (2002) *Restorative Justice and Family Violence*. Cambridge: Cambridge University Press, pp. 223-248
- Cook, K. J. (2006) Doing Difference and Accountability in Restorative Justice Conferences. *Theoretical Criminology*, **10**(1): 107-124
- Cossins, A. (2008) Restorative Justice and Child Sex Offences: The theory and the practice. *British Journal of Criminology*, **48**: 359-378
- Coy, M. & Garner, M. (2012) Definitions, Discourse and Dilemmas: policy and academic engagement with the sexualisation of popular culture. *Gender & Education*. **24**(3): 285-301.
- Curtis-Fawley, S. & Daly, K. (2005) Gendered Violence and Restorative Justice: The views of victim advocates. *Violence Against Women*, **11**(5): 603-638
- Daly, K. (2006) Restorative Justice and Sexual Assault: An archival study of court and conference cases. *British Journal of Criminology*, **46**: 334-356
- Daly, K. (2011) *Conventional and Innovative Justice Responses to Sexual Violence*. ACSSA Issues, No. 12. Australian Centre for the Study of Sexual Assault
- Daly, K. & Stubbs, J. (2006) Feminist Engagement with Restorative Justice. *Theoretical Criminology*, **10**(1): 9-28
- Herman, J. L. (2005) Justice from the Victim's Perspective. *Violence Against Women*, **11**(5): 571-602
- Hudson, B. (2002) Restorative Justice and Gendered Violence: Diversion or effective justice? *British Journal of Criminology*. **42**: 616-634
- Joyce-Wotjas, N. & Keenan, M. (2015) Is restorative justice for sexual crime compatible with various criminal justice systems? *Contemporary Justice Review*. Forthcoming.
- Jülich, S., Buttle J., Cummins C. & Freeborn E. V. (2010) *Project Restore: An exploratory study of restorative justice and sexual violence*. AUT University
- Jülich, S. (2006) Views of Justice Among Survivors of Historical Child Sexual Abuse: Implications for restorative justice in New Zealand. *Theoretical Criminology*, **10**(1):125-138
- Keenan, M. (2014) *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* School of Applied Social Sciences, University College Dublin, Ireland Retrieved from http://www.facingforward.ie/wp-content/uploads/2015/06/Report_Final.pdf
- Keenan, M, Zinsstag, E (2014) Restorative Justice and Sexual Offences – Can ‘Changing Lenses’ be appropriate in this case too? *MschKrim* 97
- Koss, M. P. (2006) Restoring Rape Survivors: Justice, advocacy, and a call to action. *Annals New York Academy of Sciences*, **1087**: 206-234
- Koss, M. P. (2014) The RESTORE Program of Restorative Justice for Sex Crimes: Vision, Process and Outcomes. *Journal of Interpersonal Violence*, **29**(9): 1623-1660
- Koss, M. P., Bachar K. J. & Hopkins C. Q. (2003) Restorative Justice for Sexual Violence: Repairing Victims, Building Community and Holding Offenders Accountable. *Annals New York Academy of Sciences*, **989**: 384-396
- Lewis, R., Dobash R. E., Dobash R. P. & Cavanagh K. (2001) ‘Law’s Progressive Potential’: The value of engagement with the law for family violence. *Social and Legal Studies*, **10**(1): 105-130
- McGlynn, C. (2011) ‘Ken Clark was right to start a debate about sentencing in rape cases’ *The Guardian* 19 May 2011 <http://www.theguardian.com/law/2011/may/19/ken-clarke-debate-sentencing-rape>
- McGlynn, C., Westmarland, N. & Godden, N. (2012) ‘I Just Wanted Him to Hear

- Me': Sexual Violence and the Possibilities of Restorative Justice. *Journal of Law and Society*, **39**(2): 213-240
- McGlynn, C. & Westmarland, N. (2014, November) Kaleidoscopic Justice: making sense of the lived complexities of justice for sexual violence victim-survivors. Paper presented at Exploring the potential of restorative justice for sexual violence, University of Leuven.
- Mercer, V. & Sten Madsen, K. (2015) *Sexual Violence and Restorative Justice: a practice guide*. Leuven: Leuven Institute of Criminology.
- Miller, S. L. (2011) *After the Crime: The power of restorative justice dialogues between victims and violent offenders*. New York, NY: New York University Press
- Miller, S. L. (2013) Using Restorative Justice for Gendered Violence: Success with a Postconviction Model. *Feminist Criminology*, **8**(4): 247-268
- Miller, S. L. (2015) Procedural Justice for Victims and Offenders?: Exploring Restorative Justice Processes in Australia and the US. *Justice Quarterly*, **32**(1): 142-167
- Morris, A. (2002) Critiquing the Critics: A brief response to critics of restorative justice. *British Journal of Criminology*, **42**(3): 596-615
- Payne, S. (2009) *Redefining Justice: Addressing the individual needs of victims and witnesses*. London: Ministry of Justice
- Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J. Howes, M., Johnstone, J., Robinson, G. & Sorsby A. (2007) *Restorative Justice: The views of victims and offenders*. Ministry of Justice Research Series 3/07. London: Ministry of Justice
- Stark, E. (2007) *Coercive Control: How Men Entrap Women in Personal Life*. Oxford: Oxford University Press
- Stern, V. Baroness (2010) *The Stern Review*. London: Government Equalities Office, Home Office
- Strang, H. & Braithwaite J. (eds.) (2002) *Restorative Justice and Family Violence*. Cambridge: Cambridge University Press
- Strang, H., Sherman, L. Angel, C. M., Woods, D. J. Bennett, S. , Newbury-Birch, D. & Inkpen, N. (2006) Victim Evaluations of Face-to-Face Restorative Justice Conferences: A quasi-experimental analysis. *Journal of Social Sciences*, **62**(2): 281-306
- Van Wormer, K. (2009) Restorative Justice as Social Justice for Victims of Gendered Violence: A standpoint feminist perspective. *Social Work*, **54**(2): 107-116
- Wemmers, J. (2002) Restorative Justice for Victims of Crime: A victim orientated approach to restorative justice. *International Review of Victimology*, **9**(1):43-59
- Westmarland, N., McGlynn, C. & Evans, J. (2014, September) Educational Empowerment Action Research: The Rape Justice Project, Paper presented at Transformative Feminist Methods conference, Durham University.